

Montana Water Court
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IN THE WATER COURT OF THE STATE OF MONTANA
CLARK FORK DIVISION
KOOTENAI RIVER BASIN (76D)
PRELIMINARY DECREE

* * * * *

CLAIMANT: Quirk Cattle Co.

OBJECTORS: Quirk Cattle Co.

CASE 76D-0034-R-2022

76D 118104-00

76D 118108-00

76D 118109-00

76D 118110-00

76D 118111-00

76D 118113-00

76D 118114-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

Water Right Claims 76D 118104-00, 76D 118108-00, 76D 118109-00, 76D 118110-00, 76D 118111-00, 76D 118113-00, and 76D 118114-00 appeared in the Preliminary Decree for the Kootenai River Basin (Basin 76D) issued May 6, 2021. These claims received issue remarks. Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination or by Water Court order. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is added to the claim. Each of these claims, except Claim 76D 118104-00, also received timely objections filed by Claimant.

The Court consolidated these claims into Water Court Case 76D-0034-R-2022 on October 25, 2022. The Court set a filing deadline by which late-objector Cate and O'Mea, a Montana Partnership, was to notify the Court as to whether it would prosecute the late-filed objections. The Court did not receive a response. The Court then issued an order on January 19, 2023 setting a filing deadline by which Claimant was to file information resolving its self-objections. Claimant filed a response on February 22, 2023.

FINDINGS OF FACT

1. Each of the above-captioned claims appeared with the following issue remark:

ON OCTOBER 31, 1985 CATE AND O'MEA, A MONTANA PARTNERSHIP, FILED A LATE OBJECTION TO THE PRIORITY DATE. THIS WILL BE HEARD AFTER PROPER NOTICE ON THE NEXT OBJECTION LIST.

2. Claim 76D 118104-00 also appeared with the following issue remark:

THIS USE MAY CONSUME SOME WATER, BUT UNTIL THAT AMOUNT IS QUANTIFIED, IT IS PRESUMED THAT THE USE IS NON-CONSUMPTIVE.

3. Claim 76D 118108-00 also appeared with the following issue remarks:

THE CLAIMED POINT OF DIVERSION IS IN QUESTION. THE LOCATION OF THE HEADGATE CANNOT BE IDENTIFIED FROM AVAILABLE DATA.

THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM MAPLE AND GALENA SPRINGS.

4. Claim 76D 118111-00 also appeared with the following issue remarks:

POINT OF DIVERSION AND DITCH NAME WERE MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

5. Claim 76D 118113-00 also appeared with the following issue remarks:

DITCH NAME WAS MODIFIED AS A RESULT OF DNRC REVIEW UNDER MONTANA WATER COURT REEXAMINATION ORDERS. IF NO OBJECTIONS ARE FILED TO THIS CLAIM, THESE ELEMENTS WILL REMAIN AS THEY APPEAR ON THIS ABSTRACT AND THE REMARK WILL BE REMOVED FROM THE CLAIM.

6. The Court provided time for the late-objector referenced in the issue remark on each above-captioned claim, Cate and O'Mea, a Montana Partnership, to notify the Court as to whether it would prosecute the late objections. The Court dismissed the late-objector in its January 19, 2023 order pursuant to Rule 22, W.R.Adj.R.

7. In the February 22, 2023 response, Claimant states it withdraws its objections to the volume of Claims 76D 118108-00, 76D 118109-00, 76D 118110-00, 76D 118111-00, 76D 118113-00, and 76D 118114-00. Claimant also withdraws its objections as to the characterization of the source as surface or groundwater and point of diversion of Claim 76D 118108-00. Claimant does not appear to withdraw its agreement with the issue remark on Claim 76D 118108-00 regarding the name of the source.

Claimant states in the objection:

“Quirk Cattle Co. agrees that the source is Maple and Galena Springs. . . The means of diversion is a pipe that flows directly from the spring. A headgate at a lower point on the system directs the water in different directions for irrigating.”

The Notice of Appropriation included with the original Statement of Claim indicates the source is Maple and Galena Springs.

8. The source name should be described as “Maple and Galena Springs.” The means of diversion should be described as “pipeline.”

9. Claimant makes the following request regarding the flow rate of Claim 76D 118108-00:

“Quirk Cattle Co. asks the Court to decree that the claimed flow rate is 2.6 CFS, rather than 2.5 CFS, because the claimed amount was 100 miner’s inches, which converts to 2.6 CFS ($100 \times 0.026041666666667 = 2.604$).”

10. Section 85-2-103(2), MCA states the following regarding measurement of water in Montana:

Where water rights expressed in statutory or miner's inches have been granted, 100 statutory or miner's inches shall be considered equivalent to a flow of 2.5 cubic feet (18.7 gallons) per second, 200 statutory or miner's inches shall be considered equivalent to a flow of 5 cubic feet (37.4 gallons) per second, and this proportion shall be observed in determining the equivalent flow represented by any number of statutory or miner's inches.

11. The flow rate of Claim 76D 118108-00 should remain as it appeared in the Preliminary Decree for Basin 76D.

12. Regarding Claim 76D 118109-00, Claimant states it does not believe the ditch name should be “Therriault Ditch.” Claimant states the following in its February 22, 2023 response:

Quirk Cattle Co. has been unable to find any information as to how or when the name Therriault Ditch was placed on the Preliminary Decree abstract. Counsel for Quirk Cattle Co. spoke with Jack Vanderbilt, an adjudication specialist in the DNRC’s regional office in Kalispell. Mr. Vanderbilt said it was most likely that the information was drawn from the DNRC’s Water Resource Survey Books. However, in reviewing the Water Resource Survey Books for the location in question (dated 8-26-1964), it appears that the ditch name is shown as “Quirk Ditches.” See Exhibit 3 (referencing claim by Mary Quirk on June 13, 1921, with a flow rate of 200 miner’s inches). The only Therriault Ditch known to Quirk Cattle Co. is more than five miles away from the POD for this water right and in another drainage that feeds into the Glen Lake Irrigation Ditch.

Quirk Cattle Co. requests that if it is necessary to place a ditch name within the POD information on the Preliminary Decree abstract for 76D 118109-00, it should be decreed as “Quirk Ditches.” However, the Montana Water Right Claim Examination Rules do not appear to require a ditch name, nor do they appear to prescribe any naming standards for ditch names.

13. The Court takes notice of the 1964 Water Resources Survey and the maps contained therein. Upon review of the 1964 WRS map for Township 37 North, Range 26 West, there appears to be a ditch originating in the northeastern corner of Section 29, T37N, R26W. The ditch appears to branch off into two labelled ditches, one being an “Ames Ditch” and the other being a “Therriault Ditch.” It is unclear, based on this information and information provided by Claimant, what the main stem of this ditch system was named in 1964.

14. The ditch name should be removed from Claim 76D 118109-00.

15. Regarding Claim 76D 118111-00, Claimant states the following:

5. Self-objection to Claim No. 76D 118111-00:

Quirk Cattle Co. objected to this claim due to uncertainty as to the name of the ditch referenced in the Preliminary Decree abstract. The DNRC’s Water Resources Survey Book for this claim states that the ditch name is Quirk Ditches. See Exhibit 3 (referencing filing by Maurice Quirk on April 8, 1894, for 300 miner’s inches).

16. The current ditch name of Claim 76D 118111-00 is listed on the Preliminary Decree abstract as “Quirk Ditch No. 2.” Upon review of Claimant’s Exhibit 3, “Quirk Ditches” is listed as the ditch name for multiple appropriations. It is unclear if “Quirk Ditches” in the Water Resources Survey Book refers to just one ditch or various ditches. It is possible “Quirk Ditch No. 2” is one of the “Quirk Ditches.” The ditch name of Claim 76D 118111-00 should remain as it appears in the Preliminary Decree for Basin 76D.

17. Claimant includes in their response a discussion regarding Claim 76D 118112-00. That claim, along with Claims 76D 25329-00 and 76D 30149978, were consolidated into Water Court Case 76D-0044-R-2022. Proceedings are ongoing in that case. The Court will not address that portion of the response regarding Claim 76D 118112-00 as that claim is not in the above-captioned case.

18. The issue remarks should be removed from each above-captioned claim.

APPLICABLE LAW

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

4. The Water Court has the authority to hear all objections to the elements of any claim included in a Court issued Temporary Preliminary Decree or Preliminary Decree. Section 85-2-233, MCA.

5. The legal standard of measurement of water in Montana is cubic feet per second. When a water right is expressed in miner’s inches, 100 miner’s inches is equivalent to a flow of 2.50 cubic feet per second. Section 85-2-103, MCA.

6. The Water Court may issue sanctions against any party who fails to comply with a Court order. Sanctions may include dismissal or modification of a claim according to information before the Court. The sanction must be just. Rule 22, W.R.Adj.R.

CONCLUSIONS OF LAW

1. The late objections filed by Cate and O' Mea, A Montana Partnership may be dismissed because the late-objector failed to respond to a Court order or otherwise participate in this case.

2. The flow rate of Claim 76D 118108-00 should remain as decreed because evidence presented is not sufficient to overcome the prima facie status of the claim. The source name and means of diversion of Claim 76D 118108-00 may be modified because the information in the record sufficiently supports such modifications.

3. The ditch name of Claim 76D 118109-00 may be removed because it is unclear what the accurate ditch name is, ditch names are not required for final decrees, and Claimant requested the name be removed.

4. The information in the record is sufficient to resolve and remove each issue remark from each above-captioned claim.

RECOMMENDATIONS

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. Post-decree Abstracts of Water Right Claims are served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Electronic Mail:

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**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118104-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

Type of Historical Right: FILED

Purpose (use): POWER GENERATION

Flow Rate: 5.00 CFS

Volume: 1,785.00 AC-FT

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNWSE	30	37N	26W	LINCOLN

Period of Diversion: JANUARY 1 TO DECEMBER 31

Diversion Means: HEADGATE

Ditch Name: SECTION 30 DITCH NO. 3

Period of Use: JANUARY 1 TO DECEMBER 31

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1			SWNWSE	30	37N	26W	LINCOLN

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118104-00 118113-00 118117-00 118128-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118104-00 118113-00 118118-00 118128-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118108-00 STATEMENT OF CLAIM
Version: 4 -- POST DECREE
Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: JUNE 17, 1892

Type of Historical Right: FILED

Purpose (use): IRRIGATION
Irrigation Type: FLOOD

Flow Rate: 2.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 252.00

Source Name: MAPLE AND GALENA SPRINGS
Source Type: GROUNDWATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWSE	29	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: PIPELINE

Ditch Name: SECTION 29 DITCH NO. 2

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	75.00		SW	29	37N	26W	LINCOLN
2	15.00		SE	30	37N	26W	LINCOLN
3	87.00		NE	31	37N	26W	LINCOLN
4	75.00		NW	32	37N	26W	LINCOLN
Total:	252.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

118108-00 118109-00 118110-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118108-00

118119-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

AS BETWEEN THE QUIRK CATTLE CO AND THE SHEA RANCH CO, THE QUIRK CATTLE CO WILL HAVE A PRIOR RIGHT TO IRRIGATE 200 ACRES AS REFLECTED IN CLAIM 76D W118113-00 WITH A FLOW RATE OF 5 CFS AND VOLUME OF 1000 AFY.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118109-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: JUNE 13, 1921

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 252.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSENE	29	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	75.00		SW	29	37N	26W	LINCOLN
2	15.00		SE	30	37N	26W	LINCOLN
3	87.00		NE	31	37N	26W	LINCOLN
4	75.00		NW	32	37N	26W	LINCOLN

Total: 252.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

118108-00

118109-00

118110-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118110-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: APRIL 11, 1899

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 4.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 252.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWNESW	29	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: SECTION 29 DITCH NO. 1

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	75.00		SW	29	37N	26W	LINCOLN
2	15.00		SE	30	37N	26W	LINCOLN
3	87.00		NE	31	37N	26W	LINCOLN
4	75.00		NW	32	37N	26W	LINCOLN
Total:	252.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

118108-00 118109-00 118110-00

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118111-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: APRIL 8, 1894

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 7.50 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 506.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		S	29	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: QUIRK DITCH NO. 2

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	131.00		E	24	37N	27W	LINCOLN
2	66.00		E	25	37N	27W	LINCOLN
3	212.00			30	37N	26W	LINCOLN
4	97.00		S	19	37N	26W	LINCOLN
Total:	506.00						

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00			

ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

AS BETWEEN THE QUIRK CATTLE CO AND THE SHEA RANCH CO, THE QUIRK CATTLE CO WILL HAVE A PRIOR RIGHT TO IRRIGATE 200 ACRES AS REFLECTED IN CLAIM 76D W118113-00 WITH A FLOW RATE OF 5 CFS AND VOLUME OF 1000 AFY

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118113-00 STATEMENT OF CLAIM

Version: 5 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: OCTOBER 15, 1884

AS BETWEEN THE QUIRK CATTLE COMPANY AND THE SHEA RANCH COMPANY,
THE QUIRK CATTLE COMPANY WILL HAVE A PRIOR RIGHT TO IRRIGATE 200 ACRES
AS REFLECTED IN CLAIM 76D W118113-00 WITH A FLOW RATE OF 5 CFS AND
VOLUME OF 1000 AF.

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT
TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 391.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNWSE	30	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: SECTION 30 DITCH NO. 2

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	131.00		E2	24	37N	27W	LINCOLN
2	66.00		E2	25	37N	27W	LINCOLN
3	150.00			30	37N	26W	LINCOLN
4	44.00		W2S2	19	37N	26W	LINCOLN

Total: 391.00

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

40711-00	118105-00	118106-00	118107-00	118111-00	118112-00
118113-00	118114-00	134521-00			

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

118104-00	118113-00	118117-00	118128-00
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118104-00	118113-00	118118-00	118128-00
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ADMINISTRATION OF THIS WATER RIGHT IS SUBJECT TO A 1987 WATER USE AGREEMENT, AS MODIFIED BY A 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE. THE 1987 WATER USE AGREEMENT IS ON FILE IN WATER COURT CASE 76D-57. THE 2018 SETTLEMENT AGREEMENT AND MUTUAL RELEASE IS ON FILE IN WATER COURT CASE WC-2017-04. A COPY OF EACH AGREEMENT HAS BEEN PLACED IN THIS CLAIM FILE.

**POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
KOOTENAI RIVER
BASIN 76D**

Water Right Number: 76D 118114-00 STATEMENT OF CLAIM

Version: 4 -- POST DECREE

Status: ACTIVE

Owners: QUIRK CATTLE CO
1151 BURMA RD
EUREKA, MT 59917

Priority Date: MAY 25, 1898

Type of Historical Right: FILED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 5.00 CFS

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 391.00

Source Name: INDIAN CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NWSWSE	30	37N	26W	LINCOLN

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: SECTION 30 DITCH NO. 1

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	131.00		E2	24	37N	27W	LINCOLN
2	66.00		E2	25	37N	27W	LINCOLN
3	150.00			30	37N	26W	LINCOLN
4	44.00		W2SW	19	37N	26W	LINCOLN
Total:	391.00						

Remarks:

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